

NORTHERN TERRITORY OF AUSTRALIA

TRAFFIC ACT 1987

No. 44 of 1987

TABLE OF PROVISIONS

Section

PART I - PRELIMINARY

1. Short title
2. Commencement
3. Interpretation
4. Act to bind Crown
5. Application of Act

PART II - ADMINISTRATION

6. Director of Transport, &c.
7. Powers of Director
8. Direction of Minister
9. Appointment of inspectors, &c.
10. Delegation

PART III - CONTROL AREAS

11. Declaration of control areas

PART IV - ERECTION AND OPERATION OF TRAFFIC
CONTROL DEVICES

12. Erection of or interference with traffic control devices
13. Competent authority may erect traffic control devices
14. Minister may direct competent authority
15. Removal of hazardous sign, &c.
16. Court may order restitution
17. Traffic control devices deemed to be lawfully erected
18. Evidence of traffic control device

PART V - DRIVING UNDER INFLUENCE OF INTOXICATING
LIQUOR OR DRUGS, &c.

19. Driving under influence of intoxicating liquor or drug or with high alcohol-blood content
20. Refusing to submit to breath analysis
21. Other evidence may be given
22. Results of breath analysis or blood test
23. Requirement to submit to breath test
24. Right to communicate with medical practitioner
25. Requirement to give blood sample
26. Right to take blood
27. Evidence by certificate
28. Calling of witnesses
29. Breath analysis instrument

PART VI - OFFENCES

- 30. Dangerous driving or riding
- 31. Driving while disqualified
- 32. Driving while not licensed
- 33. Driving unregistered vehicle
- 34. Driving uninsured or improperly insured vehicle
- 35. Driving motor vehicles registered for restricted use only

PART VII - PROSECUTIONS OF OFFENCES, PENALTIES, &c.

- 36. Laying of complaint
- 37. Offence due to accident
- 38. Proof of speed
- 39. Cancellation of licence
- 40. Disqualification where offender not licensed
- 41. Cancellation of licence
- 42. Continuation of provisional licence
- 43. Appeals against convictions, cancellations, &c.

PART VIII - MISCELLANEOUS

- 44. Traffic infringement detection device
- 45. Offence against Regulations not to affect damages in respect of death of, or injury to, child
- 46. Liability at common law and by statute
- 47. Duties and powers of police, &c.
- 48. Extension to acts or omissions in relation to animals driven, ridden or led and to vehicles or bicycles
- 49. Second or subsequent offence
- 50. Attempts to commit offence against section 19
- 51. Regulatory offences
- 52. General penalties
- 53. Regulations
- 54. Savings and transitional
- 55. Repeal

SCHEDULE 1

SCHEDULE 2



NORTHERN TERRITORY OF AUSTRALIA

No. 44 of 1987

AN ACT

to regulate traffic

[Assented to 21 October, 1987]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

PART I - PRELIMINARY

1. SHORT TITLE

This Act may be cited as the *Traffic Act 1987*.

2. COMMENCEMENT

(1) Sections 1 and 2 shall come into operation on the day on which the Administrator's assent to this Act is declared.

(2) The remaining provisions of this Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3. INTERPRETATION

(1) In this Act, unless the contrary intention appears -

"ambulance" means a vehicle specifically constructed or modified for the purpose of conveying persons to a place of medical treatment while being used for that purpose or while travelling to a place for that purpose;

"authorized analyst" means a person authorized under this Act to be an analyst;

Traffic

"bicycle" means a 2 or 3 wheeled vehicle designed to be propelled by human power and includes a powered cycle;

"blood test" means a test of a sample of a person's blood carried out for the purpose of ascertaining the concentration of alcohol or the presence of another drug or substance in that person's blood;

"breath analysis" means an analysis of a sample of a person's breath carried out for the purpose of assessing the concentration of alcohol in that person's blood;

"breath test" means a test of a sample of a person's breath carried out for the purpose of ascertaining whether -

- (a) alcohol or another drug or substance; or
- (b) a concentration of alcohol equal to or exceeding 80 mg of alcohol per 100 mL of blood,

is present in that person's blood;

"carriageway" means a portion of a public street improved, designed or ordinarily used for vehicular traffic and includes the shoulders and areas at the side or centre of the carriageway used for the standing or parking of vehicles including parking bays, and, where a public street has 2 or more portions divided by a reservation, means each portion separately;

"child" means a person who has not attained the age of 8 years;

"Commissioner" means the Commissioner appointed under the *Police Administration Act*;

"competent authority", in relation to a public street or public place, means the person, body or authority (which shall include the Territory) having the care, control and management of that street or place;

"control area" means an area declared under, or continued in force by, section 11 as a control area;

"Deputy Director" means the Deputy Director of Transport appointed under section 6(2);

"Director" means the Director of Transport appointed under section 6(1);

Traffic

"driver" means a person driving, riding or in control of a vehicle;

"emergency vehicle" means a motor vehicle which is -

- (a) the property of the Territory and in the control of the Police Force of the Northern Territory;
- (b) the property of the Territory and in the control of the Fire Service of the Northern Territory;
- (c) an ambulance; or
- (d) authorized as an emergency vehicle by the Registrar,

and which is sounding a siren, bell or repeater horn or flashing the prescribed lights;

"footway" includes a footpath, lane or other place intended exclusively for use by pedestrians and, except where bicycle use is expressly prohibited, by persons riding bicycles;

"hospital" means a hospital declared under section 6(2)(a)(i) of the *Medical Services Act*;

"inspector" means an inspector appointed under section 9;

"intersection" means a place where 2 or more public streets intersect or join and includes any area where vehicles travelling on different joining or intersecting public streets may collide;

"lane line" means a line marked on a carriageway to separate vehicles travelling in the same direction on the carriageway;

"learner's licence" means a licence granted under section 9 of the *Motor Vehicles Act*;

"licence" means a licence to drive a motor vehicle granted under the *Motor Vehicles Act*;

"motor cycle" means a motor vehicle which has 2 wheels or, where a side car is attached to the vehicle, has 3 wheels;

"motor vehicle" means a vehicle designed to be self propelled and includes a trailer when attached to a motor vehicle and a vehicle designed to be propelled by electric power obtained from overhead wires but not operated on rails, but does not include a motorized wheelchair which is not capable of travelling at a speed greater than 7 km/h or a powered cycle;

Traffic

"officer" means an officer appointed under section 9;

"pedestrian" means a person on foot, on or in a toy vehicle, in a perambulator, or in a wheelchair which is not capable of travelling at a speed greater than 7 km/h;

"powered cycle" means a bicycle or other contrivance of a similar nature which is equipped with -

(a) pedals which may be used as a means of propulsion; and

(b) an engine, motor or other device which is capable of producing a power output not exceeding 200 W;

"prescribed breath analysis instrument" means a device prescribed under section 29 for the carrying out of breath analyses;

"public place" means a place (other than a public street) open to or used by the public or to which the public is permitted to have access whether on payment of a fee or otherwise, but does not include a track in an enclosed area used for motor vehicle or bicycle racing or speed trials;

"public street" means a street, road, lane, thoroughfare, footpath or place open to, or used by, the public and includes a road on land leased under the *Special Purposes Leases Act* for use as a road, but does not include -

(a) a road, or part of a road, which is closed under the *Control of Roads Act* or the *Local Government Act*; or

(b) a street, road, lane, thoroughfare, footpath or other place under construction,

and not open to or used by the public;

"registered", in relation to a motor vehicle, means registered under the *Motor Vehicles Act*;

"Registrar" means the Registrar of Motor Vehicles appointed under the *Motor Vehicles Act*;

"reservation" means a physical provision, including markings, made on a public street to divide it longitudinally and includes a nature strip adjoining a footway, but does not include a separation line or a lane line which is the only line between 2 adjoining traffic lanes;

Traffic

"resident of the Territory" means a person who has resided continuously in the Territory for not less than 3 months;

"separation line" means a line marked on a carriageway to separate vehicles travelling in opposite directions on the carriageway;

"solution of standard alcohol" means a solution consisting of ethyl alcohol and distilled water in the proportion of 3.36 g of ethyl alcohol per litre of solution;

"this Act" includes the Regulations;

"traffic control device" means a traffic control signal or a light, sign, mark, structure or item placed, erected or displayed for the purpose of regulating, warning or guiding traffic;

"traffic control signal" means a device using a word, symbol, coloured light or a combination of them by means of which traffic may be controlled or regulated;

"traffic infringement detection device" means a device approved under section 44(1) as a traffic infringement detection device;

"traffic island" means a physical provision, including marking, made on a public street to guide traffic on the street, but does not include a traffic control device;

"trailer" means a vehicle without motive power constructed or adapted to be drawn by a motor vehicle;

"vehicle" means a conveyance or other device designed to be propelled or drawn by any means and includes a bicycle or an animal being driven or ridden, but does not include a train, or a wheelchair which is not capable of travelling at a speed greater than 7 km/h;

"visiting motor vehicle" means a motor vehicle which -

- (a) is registered in another country or in a State or in another Territory of the Commonwealth;
- (b) has affixed to it the current registration label and number plates required to be affixed by the law of that country, State, or other Territory; and
- (c) is temporarily in the Territory;

Traffic

"young person" means a person who has attained the age of 8 years but has not attained the age of 14 years.

(2) For the purposes of paragraph (c) of the definition of visiting motor vehicle in subsection (1), a motor vehicle shall be deemed not to be temporarily in the Territory where -

- (a) the vehicle would be, if registered in the Territory, of a type referred to in item 2, 3, 4 or 7 of Schedule 2 of the *Motor Vehicles Act*; and
- (b) has been in the Territory continuously for more than 28 days.

(3) In this Act, a reference to a person licensed to drive a motor vehicle is a reference to that person being licensed to drive a vehicle of a class permitted to be driven in accordance with that person's licence.

(4) In Part V, a reference to a person driving a motor vehicle includes starting the engine of, or putting into motion, that vehicle.

4. ACT TO BIND CROWN

Except where otherwise expressly provided, this Act binds the Crown in right of the Territory and, in so far as is possible, the Crown in all its other capacities.

5. APPLICATION OF ACT

Unless the contrary intention appears, this Act, in so far as it applies to or in relation to a driver, vehicle or pedestrian, applies only to or in relation to a driver, vehicle or pedestrian on a public street or in a public place.

PART II - ADMINISTRATION

6. DIRECTOR OF TRANSPORT, &c.

(1) The Minister may, by notice in writing, appoint an employee within the meaning of the *Public Service Act* to be the Director of Transport for the purposes of this Act.

(2) The Minister may, by notice in writing, appoint an employee within the meaning of the *Public Service Act* to be the Deputy Director of Transport for the purposes of this Act.

(3) The Deputy Director, while that person remains in office, shall have and may exercise, perform and discharge, subject to the control and direction of the Director, all the functions and powers of the Director, and all references in this Act or any other Act to the

Traffic

Director shall, so far as is necessary for the purpose of giving effect to this section, be read as including a reference to the Deputy Director.

7. POWERS OF DIRECTOR

Subject to this Act, the Director has power to do all things necessary or convenient to be done for or in connection with, or incidental to, the performance of the Director's functions.

8. DIRECTION OF MINISTER

In the exercise of the powers and the performance of the functions vested in the Director under this Act, the Director is subject to the direction of the Minister.

9. APPOINTMENT OF INSPECTORS, &c.

(1) The Director may appoint such inspectors and officers as the Director thinks necessary for the purposes of this Act.

(2) An inspector or officer shall have and may exercise such powers and perform such functions of the Director as the Director determines.

10. DELEGATION

(1) The Minister, the Director or the Registrar may, by instrument in writing, delegate to a person or competent authority any of their respective powers and functions under this Act, other than this power of delegation.

(2) A competent authority may, by instrument in writing, delegate to a person any of its powers and functions under this Act, other than this power of delegation.

(3) A power or function delegated under this section, when exercised or performed by the delegate, shall, for the purposes of this Act, be deemed to have been exercised or performed by the Minister, the Director, the Registrar or the competent authority, as the case may be.

(4) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Minister, the Director, the Registrar or the competent authority.

PART III - CONTROL AREAS

11. DECLARATION OF CONTROL AREAS

(1) The Minister may, by notice in the *Gazette*, declare an area to be a control area for a period not exceeding 12 months.

Traffic

(2) The Minister may, on or before the expiration of the period specified in a notice under this section, declare, by notice in the *Gazette*, that a control area shall continue in force for a further period, not exceeding 12 months, as specified in the notice.

(3) Where the Minister under this section declares an area to be, or to continue to be, a control area, the Minister, in the notice under subsection (1) or (2) -

(a) shall specify the area in respect of which the control area is declared or declared to continue;

(b) shall specify the period during which the control area shall remain in force;

(c) shall specify the sections, if any, of the Act which shall not apply to and in relation to the control area;

(d) may declare that the provisions contained in the notice shall apply to and in relation to the control area -

(i) in substitution of specified sections of;
or

(ii) in addition to,

this Act; and

(e) may declare that a person who contravenes or fails to comply with a provision declared under subsection (3)(d) as applying to and in relation to a control area is guilty of an offence, including a regulatory offence, and liable on conviction to a penalty not exceeding \$2,000 or 12 months imprisonment, or both.

(4) With effect on and from the date a control area is declared under subsection (1), or declared to continue in force under subsection (2), the sections of this Act specified in the notice in accordance with subsection (3)(c) or (d) shall not apply to or in relation to the control area.

(5) A provision declared under subsection (3)(d) as applying to and in relation to a control area shall, for the purposes of the application of that provision to and in relation to that area, be deemed to be a section of this Act.

(6) Where the Minister makes a declaration under subsection (3)(e), a person who contravenes or fails to comply with the provision to which the declaration relates is guilty of an offence.

Traffic

(7) Section 63(1)(c), (8), (9) and (10) of the *Interpretation Act* shall apply to and in relation to a notice declaring a control area where, in that notice, the Minister has, under subsection (3)(d), declared a provision contained in the notice to apply to and in relation to the control area (other than a notice declaring that provision to continue to apply to and in relation to that area) as if that notice were, for the purposes of those subsections of the *Interpretation Act*, a regulation.

PART IV - ERECTION AND OPERATION OF TRAFFIC CONTROL DEVICES

12. ERECTION OF OR INTERFERENCE WITH TRAFFIC CONTROL DEVICES

(1) A person shall not, without the consent in writing of the competent authority -

- (a) erect, establish or display; or
- (b) interfere with, alter or take down,

a traffic control device on a public street or public place.

(2) A person shall not erect, establish, place, display or maintain anything on a public street or public place which -

- (a) interferes with the effectiveness of a traffic control device;
- (b) may prevent a driver approaching a traffic control device from clearly seeing that device or any part of it;
- (c) may distract the attention of a driver approaching a traffic control device from that device;
- (d) may prevent a driver on a public street or public place from clearly seeing the street or place ahead of that driver; or
- (e) purports to be, or is an imitation of, or is similar to -
 - (i) a traffic control device; or
 - (ii) a flashing light of a type fitted to an emergency vehicle.

(3) The owner of a light shall not use it or permit it to be used where the Director has, by notice in writing to that owner, declared that the use of the light is a danger to traffic.

Traffic

(4) Where a person has erected, established, placed, displayed or maintained a thing on a public street or public place which, in the opinion of the Director or the competent authority, contravenes section 12(2), the Director or competent authority may direct that person to remove it in such time as the Director or competent authority specifies.

(5) The Director or the competent authority may, where a person given a direction under subsection (4) fails to comply with the direction within the specified time, remove the thing or cause it to be removed, and the cost of that removal shall be a debt due and payable by that person to the Territory (where the direction is given by the Director) or the competent authority.

13. COMPETENT AUTHORITY MAY ERECT TRAFFIC CONTROL DEVICES

(1) Subject to subsection (2), a competent authority may -

- (a) erect, establish, place or display a traffic control device on, near or above a public street or public place;
- (b) erect or establish a traffic island or reservation on a public street or public place;
- (c) mark a road marking on a carriageway or kerb of a public street or public place; or
- (d) alter or remove a traffic control device, traffic island, reservation or road marking.

(2) A traffic control device shall be in the prescribed form.

14. MINISTER MAY DIRECT COMPETENT AUTHORITY

(1) Subject to subsection (2), the Minister may direct a competent authority (other than the Territory) to remove or alter -

- (a) a traffic control device which is not in the prescribed form; or
- (b) a traffic control device, traffic island, reservation or road marking established, placed or displayed by the competent authority.

(2) The Minister shall not give a direction under subsection (1) in or in relation to the establishing, placing or displaying of a traffic control device, traffic island, reservation or road marking unless the Minister is satisfied that such a direction is necessary to ensure consistency in the Territory in the establishing, placing or displaying of such devices, islands, reservations or road markings.

Traffic

(3) A competent authority shall comply with a direction given under subsection (1).

15. REMOVAL OF HAZARDOUS SIGN, &c.

(1) Where, in the opinion of the Director, a light, signal, flag, notice or other device is or is likely to be a hazard to traffic on a public street or public place, the Director may, by notice in writing to the owner of the light, signal, flag, notice or device, require the owner to remove it within the time specified in the notice.

(2) A person served with a notice under subsection (1) who fails to comply with that notice is guilty of an offence.

(3) Where a person served with a notice under subsection (1) fails to comply with that notice in the specified time, the Director may, without affecting the person's liability under subsection (2), remove, or cause to be removed, the light, signal, flag, notice or device, and the cost of that removal shall be a debt due and payable by that person to the Territory.

(4) For the purposes of removing, or causing to be removed, a light, signal, flag, notice or device under subsection (3), the Director or a person authorized by the Director may enter on the land on which the light, signal, flag, notice or device is situated with such assistance as, and take whatever action, the Director or the authorized person considers necessary to remove it.

16. COURT MAY ORDER RESTITUTION

Where a person is convicted of an offence under this Act in relation to a traffic control device, the court may, in addition to convicting the person, where damage was caused by the person to the traffic control device in committing the offence, order that person to pay the cost of the repair or replacement of the device.

17. TRAFFIC CONTROL DEVICES DEEMED TO BE LAWFULLY ERECTED

(1) Where, under this Act, a traffic control device is erected, established, placed or displayed, it shall be deemed to be lawfully erected, established, placed or displayed and its presence to be consistent with its traffic control purpose, unless the contrary is proved.

(2) A traffic control device which substantially conforms with the prescribed dimensions, shape, colour, position, direction, angle or other features of a particular traffic control device shall be deemed to be a traffic control device of that kind.

Traffic

18. EVIDENCE OF TRAFFIC CONTROL DEVICE

Unless the contrary is proved, evidence that a traffic control device was erected, established, placed or displayed on, near or above a carriageway or an intersection or the surface of a public place is evidence that it was erected, established, placed or displayed by the competent authority in accordance with this Act.

PART V - DRIVING UNDER INFLUENCE OF INTOXICATING LIQUOR OR DRUGS, &c.

19. DRIVING UNDER INFLUENCE OF INTOXICATING LIQUOR OR DRUG OR WITH HIGH ALCOHOL-BLOOD CONTENT

(1) A person shall not, on a public street or public place -

- (a) drive;
- (b) start the engine of; or
- (c) put in motion,

a motor vehicle if that person is under the influence of intoxicating liquor or a drug or psychotropic substance to such an extent as to be incapable of having proper control of the motor vehicle.

Penalty: For a first offence - \$1,000 or imprisonment for 12 months.

For a second or subsequent offence - \$2,000 or imprisonment for 12 months.

(2) A person shall not, on a public street or public place -

- (a) drive;
- (b) start the engine of; or
- (c) put in motion,

a motor vehicle if there is a concentration of alcohol in that person's blood equal to 80 mg or more of alcohol per 100 mL of blood.

(3) The penalty for an offence against subsection (2) is -

- (a) for a first offence, where the court is satisfied that at the time of the offence the concentration of alcohol in the blood of the person convicted of the offence was equal to -

- (i) not less than 80 mg but less than 150 mg of alcohol per 100 mL of blood - \$750 or imprisonment for 6 months; or

Traffic

(ii) 150 mg or more of alcohol per 100 mL of blood - \$1,000 or imprisonment for 12 months; and

(b) for a second or subsequent offence - \$2,000 or imprisonment for 12 months.

(4) A person to whom this subsection applies shall not, on a public street or public place -

(a) drive;

(b) start the engine of; or

(c) put in motion,

a motor vehicle if alcohol is present in that person's blood.

Penalty: For a first offence - \$500 or imprisonment for 3 months.

For a second or subsequent offence - \$750 or imprisonment for 6 months.

(5) Subsection (4) applies to a person who -

(a) has not attained the age of 18 years;

(b) is the holder of a learner's licence;

(c) is both the holder of a licence and a learner's licence when driving a motor vehicle of a class specified in the learner's licence;

(d) is the holder of a licence which is provisional by virtue of section 10A of the *Motor Vehicles Act* or section 42; or

(e) is not licensed, other than by virtue of the fact that the person has failed to renew his or her licence, or is not otherwise permitted by section 32(1) to drive a motor vehicle.

20. REFUSING TO SUBMIT TO BREATH ANALYSIS

(1) A person shall not, on being required under this Act to submit to a breath analysis, refuse or fail to -

(a) submit to; or

(b) provide, in accordance with the directions of the person carrying out the breath analysis, a sample of breath sufficient for the completion of,

Traffic

the breath analysis.

Penalty: For a first offence - \$1,000 or imprisonment for 12 months.

For a second or subsequent offence - \$2,000 or imprisonment for 12 months.

(2) It is a defence to a prosecution for an offence against subsection (1) if the defendant satisfies the court that it would have been detrimental to the defendant's medical condition at the time when required so to do for the defendant to have submitted to a breath analysis or that the defendant had other reasonable grounds for refusing or failing to submit to a breath analysis.

(3) A person shall not, on being required under this Act to give a sample of blood for the purposes of having a blood test carried out to ascertain the concentration of alcohol in that person's blood, refuse or fail to -

- (a) give that sample of blood;
- (b) comply with an arrangement made under this Act for taking the person to a hospital or of taking a sample of the person's blood; or
- (c) provide, in accordance with the directions of the person taking the blood sample, a sample of blood sufficient for the completion of the blood test.

Penalty: For a first offence - \$1,000 or imprisonment for 12 months.

For a second or subsequent offence - \$2,000 or imprisonment for 12 months.

(4) It is a defence to a prosecution for an offence against subsection (3) if the defendant satisfies the court that it would have been detrimental to the defendant's medical condition at the time when required so to do for the defendant to have given the sample of blood or that the defendant had other reasonable grounds for refusing or failing to give the sample.

(5) It is not reasonable grounds for refusing or failing to submit to a breath analysis or give a blood sample that the defendant had consumed intoxicating liquor after the defendant ceased to drive a motor vehicle.

(6) Where a person is convicted of an offence against subsection (3) and the court is satisfied that -

- (a) the person was required to give the blood sample because the person entered a hospital for examination or treatment of injuries; and

Traffic

- (b) at the time of the accident in respect of which the person received the injuries that person was not driving a motor vehicle,

it shall not sentence the person to a term of imprisonment, cancel the person's licence or impose a fine greater than \$50 and the person's licence shall not be cancelled by virtue of that conviction notwithstanding section 39, and the offence shall not constitute a second or subsequent offence for the purposes of section 49(2).

(7) For the purposes of subsection (1), a person shall be deemed to have failed to submit to a breath analysis if that person by that person's actions or inactions, in any way, prevents a member of the Police Force from requiring that person to submit to a breath analysis.

21. OTHER EVIDENCE MAY BE GIVEN

Subject to this Act, in any proceedings in a court -

- (a) evidence other than the result of a breath analysis or blood test may be given for the purposes of showing the concentration of alcohol in the blood of a person or showing that a person was or was not under the influence of intoxicating liquor or another drug; and
- (b) the court may find that a person was, at the relevant time, under the influence of intoxicating liquor or a drug or psychotropic substance to such an extent as to be incapable of having proper control of a motor vehicle without there being evidence of the concentration of alcohol in the person's blood at that time or on evidence that there was present in that person's blood at that time a concentration of alcohol less than 80 mg of alcohol per 100 mL of blood.

22. RESULTS OF BREATH ANALYSIS OR BLOOD TEST

(1) Where, in any proceedings in a court, the court is satisfied that one or 2 breath analyses were carried out on a sample or samples of a person's breath before the expiration of 2 hours after the event referred to in section 23(1) or (2) as a result of which the breath analysis was or analyses were carried out, the person shall be deemed, whether or not evidence is given that the person consumed alcohol after the time of the event, to have had, at the time of the event, a concentration of alcohol in his or her blood not less than the concentration, or the lower concentration, assessed by the analysis or analyses.

Traffic

(2) Where, in any proceeding in a court, the court is satisfied that a breath analysis was not carried out on a sample or samples of a person's breath but a blood test was carried out on a sample of that person's blood taken before the expiration of 4 hours after that person entered a hospital after -

- (a) the event referred to in section 23(1) or (2);
or
- (b) the motor vehicle accident referred to in section 25(1),

as a result of which the blood test was carried out, the person shall be deemed, whether or not evidence is given that the person consumed alcohol after the time of the event or accident, to have had, at the time of the event or accident, a concentration of alcohol in his or her blood not less than the concentration ascertained by the test.

(3) In this section "event", in respect of section 23(1)(a), means the last act of driving a motor vehicle by a person referred to in that section before that person is required to undergo a breath test or breath analysis.

23. REQUIREMENT TO SUBMIT TO BREATH TEST

(1) A member of the Police Force may require a person to undergo a breath test or breath analysis, or both, if the member has reasonable cause to suspect that the person -

- (a) has committed an offence against section 19;
- (b) was the driver of a motor vehicle at the time of an accident on a public street or public place in which the motor vehicle was involved;
or
- (c) was in an accident on a public street or public place owing to the presence of a motor vehicle and that person has, or had at the time of the accident, alcohol in his or her blood.

(2) Notwithstanding subsection (1), a member of the Police Force may require a person who is driving a motor vehicle on a public street or public place to undergo, at or near the place where the requirement is made, a breath test or breath analysis, or both, and, for the purpose of enabling the member to make such a request that member or any other member may, if necessary, direct that person, by signal or otherwise, to stop the motor vehicle that person is driving.

(3) A person driving a motor vehicle shall, for the purposes of subsection (2), be regarded as still driving that motor vehicle notwithstanding that -

Traffic

(a) the motor vehicle is stationary; or

(b) the person has alighted from it.

(4) A requirement or direction under subsection (2) may be made by a member of the Police Force whether or not the member has grounds for suspecting that a person has consumed intoxicating liquor.

(5) Where a member of the Police Force under subsection (2) requires a person to undergo a breath test or breath analysis, that person shall comply with the requirement in the presence of that member or another member of the Police Force and in accordance with such directions, if any, given by that member or that other member.

(6) Where, after requiring a person to undergo a breath test in accordance with this section, a member of the Police Force reasonably believes that alcohol is present in that person's blood, whether as a result of such a test or not, that person is liable to submit to a breath analysis.

(7) Where -

(a) it appears to a member of the Police Force from the results of a breath test on a sample of a person's breath that there is present in the person's blood -

(i) any alcohol, where the person is a person referred to in section 19(5); or

(ii) a concentration of alcohol equal to or exceeding 80 mg of alcohol per 100 mL of blood; or

(b) a person, on being required under this section to submit to a breath test, refuses or fails to -

(i) submit to the breath test; or

(ii) provide, in accordance with the directions of a member of the Police Force carrying out the test, a sample of breath sufficient for the completion of the breath test,

a member of the Police Force may arrest that person without warrant and the member or another member may take that person to a police station or police stations or such other place or places as the member considers desirable and there detain or cause that person to be detained for the purpose of carrying out a breath analysis.

(8) A member of the Police Force may require a person who has been arrested under subsection (7) to submit to a breath analysis.

Traffic

(9) A person who has submitted to a breath analysis of a sample of that person's breath as required under this section may be required by a member of the Police Force to submit to one other breath analysis of another sample of that person's breath in respect of the same occurrence.

(10) A person who has submitted to a breath analysis as required under this section may, at any time prior to or at the time of receiving the prescribed statement but not otherwise, request the person who carried out the analysis to carry out one other breath analysis on another sample of that person's breath and the person who carried out the analysis shall, subject to this section, carry out or arrange for the breath analysis to be carried out in pursuance of subsection (9).

(11) A member of the Police Force shall not require a person to submit to a breath test or breath analysis under this section -

(a) if it appears to the member that the person has -

(i) injuries and the member is satisfied that it may be detrimental to the person's medical condition for that person to submit to the breath test or breath analysis within 2 hours after the event referred to in subsection (1) or (2); or

(ii) a physical disability which prevents that person from providing a sample of breath for, or a sample sufficient for the completion of, a breath test or breath analysis; or

(b) at any time after the expiration of 2 hours after the event referred to in subsection (1) or (2).

24. RIGHT TO COMMUNICATE WITH MEDICAL PRACTITIONER

(1) A person who is in custody following that person undergoing a breath analysis or after giving a sample of blood under this Act may request the person who carried out the breath analysis or who took the blood sample to permit that person to communicate with a medical practitioner for the purpose of requesting the medical practitioner to -

(a) examine that person; and

(b) take a sample of that person's blood.

(2) A person to whom a request under subsection (1) is made shall make such arrangements as are reasonable in the circumstances for the person who made the request to communicate with a medical practitioner.

Traffic

25. REQUIREMENT TO GIVE BLOOD SAMPLE

(1) Subject to section 26, the Minister administering the *Public Health Act* shall ensure, for the purpose of having a blood test carried out by an authorized analyst, that a sample of blood is taken as soon as practicable from each person who has apparently attained the age of 15 years who enters a hospital for examination or treatment of injuries which may have been received in a motor vehicle accident.

(2) Where a member of the Police Force does not, by reason of section 23(11)(a), require a person to submit to a breath test or breath analysis, that member or another member may, subject to subsection (6), require that person to give a sample of blood for the purposes of having a blood test carried out by an authorized analyst.

(3) Where, in pursuance of subsection (2), a person is required to give a sample of blood -

(a) a member of the Police Force shall make arrangements for the person to be taken to a hospital and for a sample of that person's blood to be taken; and

(b) subject to section 26, the person in charge of the hospital shall ensure that the sample is taken as soon as practicable.

(4) Subject to subsection (5), a blood sample which is taken in pursuance of this section is the property of the Commissioner.

(5) The person who takes a blood sample in pursuance of this section may make approximately half of the sample available to the person from whom it was taken.

(6) Where a member of the Police Force has not required a person to submit to a breath test or breath analysis by reason of section 23(11)(a)(ii), that member or another member shall not, under subsection (2), require that person to give a sample of blood for the purpose of having a blood test carried out by an authorized analyst unless the member reasonably believes that the concentration of alcohol in that person's blood is such that the person has committed an offence against this Act.

26. RIGHT TO TAKE BLOOD

(1) For the purposes of section 25, a member of the staff of a hospital who is a medical practitioner or under the direct supervision of a medical practitioner may -

(a) take a sample of the blood of a person who is unconscious or apparently incapable of consenting to the giving of the sample; or

Traffic

(b) require a person to give a sample of blood.

(2) A member of the staff of a hospital is not required to take a sample of a person's blood under section 25 if that member believes on reasonable grounds that -

(a) the concentration of alcohol in the person's blood is already known;

(b) the taking of the sample would be detrimental to the person's medical condition;

(c) the injuries of the person were not received in a motor vehicle accident or the motor vehicle accident happened more than 12 hours before the person entered the hospital; or

(d) a period of more than 4 hours has elapsed since the person entered the hospital.

(3) No action or proceedings for assault, whether in or outside the Territory, shall lie against a person who takes a blood sample for the purposes of this Act.

27. EVIDENCE BY CERTIFICATE

(1) In a prosecution for an offence against section 19 or 20, a certificate in the relevant prescribed form purporting to be signed by -

(a) a person authorized by the Commissioner under this Act to use a prescribed breath analysis instrument for the purposes of this Act;

(b) a member of the staff of a hospital; or

(c) an authorized analyst,

is prima facie evidence of the matters stated in the certificate and the facts on which they are based.

(2) For the purposes of subsection (1), the Regulations may prescribe forms of certificate to be used by different persons on different occasions.

28. CALLING OF WITNESSES

In a prosecution for an offence against section 19(2), (4) or 20, where a party intends to call as a witness a person whose evidence may be received by way of certificate under section 27, that party shall -

(a) give not less than 14 days notice in writing of that intention to the other party; and

(b) summons the person in accordance with the *Justices Act*.

Traffic

29. BREATH ANALYSIS INSTRUMENT

- (1) The Regulations may provide -
 - (a) that a device for the carrying out of a breath analysis is a prescribed breath analysis instrument; and
 - (b) for the proper use of a prescribed breath analysis instrument,

for the purposes of this Act.

(2) A court shall not receive evidence that a prescribed breath analysis instrument, when it is in good working order and used in accordance with the Regulations relating to its use, does not give a true and correct assessment of the concentration of alcohol in a person's blood.

PART VI - OFFENCES

30. DANGEROUS DRIVING OR RIDING

(1) A person shall not, on a public street or public place, drive or ride a vehicle negligently or recklessly or at a speed or in a manner dangerous to the public.

Penalty: \$2,000 or imprisonment for 2 years.

(2) In considering whether an offence has been committed under this section, the court shall have regard to all the circumstances of the case, including the nature, condition and use of the public street or public place on which the offence is alleged to have been committed, and the amount of traffic which was, or might reasonably have been expected to have been, on that public street or public place at the time.

(3) Where a person is convicted of an offence against subsection (1) by reason of driving a motor vehicle on a public street or public place recklessly or at a speed or in a manner dangerous to the public, the person's licence shall, by force of the conviction, be cancelled and that person shall be disqualified from holding a licence -

- (a) for a first offence - for a period of 3 months; and
- (b) for a second or subsequent offence - for a period of 12 months,

or such longer period as the court thinks fit.

(4) Subsection (1) in so far as it relates to the driving of a motor vehicle at a speed dangerous to the public does not apply to the driver of a motor vehicle which is -

Traffic

- (a) being driven or used by a member of the Police Force in the execution of that member's duty;
- (b) being driven by a member of a fire brigade to a place in answer to a call for the services of a fire brigade, or whilst it is in use at a fire; or
- (c) an ambulance.

31. DRIVING WHILE DISQUALIFIED

(1) Where a person is disqualified from holding a licence for a period, that person shall not during that period -

- (a) obtain a licence; or
- (b) drive a motor vehicle anywhere within the Territory.

Penalty: Imprisonment for 12 months.

(2) Where a person is convicted of an offence against subsection (1), the court may disqualify that person from holding a licence for such further period as it thinks fit.

32. DRIVING WHILE NOT LICENSED

(1) A person shall not drive a motor vehicle on a public street or public place -

- (a) unless that person -
 - (i) holds a licence;
 - (ii) is temporarily in the Territory and holds a licence or permit to drive a motor vehicle granted in -
 - (A) the country or a State or other Territory of the Commonwealth in which that person usually resides; and
 - (B) when required, holds a current international driving permit granted in accordance with the terms of the 1949 United Nations Convention on Road Traffic;
 - (iii) holds a learner's licence; or
 - (iv) is temporarily in the Territory and holds a licence or permit (however referred to) granted in the country or a State or other Territory of the Commonwealth in which

Traffic

that person usually resides which permits that person to drive a motor vehicle to gain experience for the purpose of obtaining a licence to drive a motor vehicle, and that person is driving in accordance with the conditions, if any, of that licence or permit,

and the vehicle is one which that person is permitted by that licence or permit to drive; or

- (b) if that person is disqualified from holding a licence in a State or another Territory of the Commonwealth, during the period that disqualification is in force.

(2) A person shall not employ, permit or suffer a person to drive a motor vehicle on a public street or public place if that person is not, by virtue of subsection (1), permitted to drive that motor vehicle.

(3) For the purposes of subsection (1)(a) or (2), a person who is a resident of the Territory shall be deemed not to hold a licence to drive a motor vehicle unless that person is, under section 8A(3) of the *Motor Vehicles Act*, exempted from the requirement to be licensed, notwithstanding that that person is the holder of a licence to drive that motor vehicle granted under a law of a country or of a State or another Territory of the Commonwealth relating to the licensing of persons to drive motor vehicles.

(4) In a prosecution for an offence against subsection (1)(a) or (2) relating to a person who is deemed not to hold a licence to drive a motor vehicle by virtue of subsection (3), an averment in the complaint that the person is a resident of the Territory is prima facie evidence of that fact.

33. DRIVING UNREGISTERED VEHICLE

(1) A person shall not -

(a) drive; or

(b) employ, permit or suffer a person to drive,

on a public street or public place a motor vehicle which is not registered.

Penalty: \$2,000 or imprisonment for 12 months.

(2) An inspector or a member of the Police Force who has reason to believe that a motor vehicle is not registered may remove a number plate which is attached to that vehicle.

Traffic

(3) For the purposes of this section -

- (a) a visiting motor vehicle in relation to which there is in force a policy of insurance complying with the provisions of a law in force in a State or another Territory of the Commonwealth requiring the owner or driver of a motor vehicle to be insured against liability in respect of the death of or bodily injury to a person caused by or arising out of the use of the motor vehicle;
- (b) a motor vehicle being driven by the shortest practicable route to the nearest office of the Registrar or police station, for the purpose of registering that vehicle;
- (c) a motor vehicle being removed or operated in pursuance of a licence granted under section 137 of the *Motor Vehicles Act*;
- (d) a motor vehicle being driven in pursuance of, and in accordance with, a pastoral vehicle permit granted under section 137B of the *Motor Vehicles Act*;
- (e) a vehicle which is the property of the Commonwealth or an authority of the Commonwealth; and
- (f) a motor vehicle registered under the *Interstate Road Transport Act* of the Commonwealth,

shall be deemed to be registered.

(4) A person shall not drive a visiting motor vehicle on a public street or public place unless -

- (a) that person can establish, to the satisfaction of the Registrar, that within the period of 3 months immediately preceding that day, it had been outside the Territory; or
- (b) the vehicle is, under section 8A(1) of the *Motor Vehicles Act*, exempted from the requirement for registration.

(5) For the purposes of subsection (1), a motor vehicle shall be deemed to be not registered, notwithstanding that it is registered under a law of another country or of another State or Territory of the Commonwealth relating to the registration of motor vehicles, where it is being driven by a person who is -

- (a) a resident of the Territory; and
- (b) the owner of the vehicle,

and the vehicle has been in the Territory continuously for -

Traffic

- (c) more than 28 days; or
- (d) where the Registrar has, under section 8A(1) of the *Motor Vehicles Act*, exempted the vehicle from the requirement for registration for a period, for more than that period.

(6) For the purposes of subsection (5)(b), but without limiting that subsection, a person shall be deemed to be the owner of a motor vehicle if it is registered under a law of another country or of another State or Territory of the Commonwealth in the name of that person or in the name of the spouse, a dependant or parent, who is a resident of the Territory, of that person.

(7) In a prosecution for an offence against subsection (1) in respect of a motor vehicle which is deemed not to be registered by virtue of subsection (5), an averment in the complaint that -

- (a) a person is a resident of the Territory; or
- (b) the vehicle in respect of which an alleged offence was committed had been in the Territory continuously for a specified period,

is prima facie evidence of the matters averred.

34. DRIVING UNINSURED OR IMPROPERLY INSURED VEHICLE

(1) Subject to subsection (4), a person shall not drive or permit to be driven on a public street or public place a motor vehicle in respect of which a current compensation contribution has not been paid under Part V of the *Motor Vehicles Act*.

Penalty: \$10,000, with a minimum penalty of -

- (a) for a first offence - \$500; and
- (b) for a second or subsequent offence - \$1,000.

(2) Subject to subsection (4), the owner of a motor vehicle shall not use or permit it to be used for a purpose which, under Part V of the *Motor Vehicles Act*, requires a compensation contribution to be paid greater than that paid for that vehicle at the time it was registered.

Penalty: \$2,000, with a minimum penalty of -

- (a) for a first offence - \$500; and
- (b) for a second or subsequent offence - \$1,000.

Traffic

(3) Subsections (1) and (2) do not apply to or in relation to a motor vehicle which is deemed under section 33(3) to be registered.

(4) Notwithstanding that a minimum penalty is prescribed for an offence against subsections (1) and (2) the Regulations may provide that the minimum penalty shall not apply to certain classes of offences against those subsections and that minimum penalty shall accordingly not apply to those offences.

35. DRIVING MOTOR VEHICLES REGISTERED FOR RESTRICTED USE ONLY

Where the Registrar has made an endorsement on a certificate of registration under section 102A of the *Motor Vehicles Act* and the endorsement is in force, a person shall not drive on a public street or public place a motor vehicle in respect of which that certificate of registration has been granted other than during the times specified in the endorsement.

PART VII - PROSECUTIONS OF OFFENCES, PENALTIES, &c.

36. LAYING OF COMPLAINT

(1) A complaint for an offence against this Act may be made by any person.

(2) Where a complaint is made by a person (other than the Director, an inspector, a member of the Police Force or a person authorized by a statutory corporation to make complaints on its behalf under this Act) and the proceedings are dismissed or the complaint is withdrawn, the court may, if it thinks fit, order that person to pay to the defendant, in addition to any costs, such compensation as it thinks reasonable.

37. OFFENCE DUE TO ACCIDENT

(1) A person is not liable to be convicted of an offence against this Act if that person proves, to the satisfaction of the court hearing the case, that the offence could not have been avoided by any reasonable efforts on that person's part.

(2) It is a defence to a prosecution for an offence against this Act if the defendant satisfies the court that the action the defendant took was reasonable in the circumstances and intended to evade a dangerous situation which had arisen through no fault or negligence on the defendant's part.

Traffic

38. PROOF OF SPEED

(1) A person shall not be convicted of an offence of or relating to exceeding a prescribed speed limit solely on the evidence of one witness to the effect that, in the opinion of the witness, the person was driving the vehicle at a speed faster than that permitted for that vehicle.

(2) A complaint for an offence of or relating to driving a vehicle at a speed exceeding a prescribed speed limit shall specify the speed at which, or faster than which, it is alleged the defendant drove the vehicle.

(3) Evidence may be given in any proceedings in a court for the purpose of showing the speed at which a vehicle was travelling at a particular time by reference to the calculation of the speed of that vehicle as shown on a traffic infringement detection device and, where evidence is so given, it shall be prima facie that the vehicle was travelling at the speed so calculated at that time.

39. CANCELLATION OF LICENCE

(1) Where a person is convicted of an offence against a section specified in Column 1 of Schedule 1 that person's licence shall, by force of the conviction, be cancelled and the person shall be disqualified from holding a licence -

- (a) for a first offence - for the period specified in Column 3; and
- (b) for a second or subsequent offence - for the period specified in Column 4,

of that Schedule opposite the relevant section in Column 1 or such longer period as the court thinks fit.

(2) For the purposes of this section -

- (a) a reference to a person convicted of an offence includes a person to whom an order (including an order to dismiss a charge) made under section 4(1) of the *Criminal Law (Conditional Release of Offenders) Act* in respect of that offence relates;
- (b) a reference to a second or subsequent offence includes, in addition to an offence which under section 49(2) is to be read as a second or subsequent offence, an order (including an order to dismiss a charge) made under section 4(1) of the *Criminal Law (Conditional Release of Offenders) Act* in respect of a person charged with an offence against any section referred to in section 49(2); and

Traffic

- (c) the period during which a person is disqualified from holding a licence in respect of an offence against section 19(2) shall be ascertained by reference to the concentration of alcohol in the blood of the offender as specified in Column 2 of Schedule 1.

40. DISQUALIFICATION WHERE OFFENDER NOT LICENSED

Where a person who does not hold a licence is convicted of an offence against this Act, where, by force of the conviction the person's licence would or may, if the person held one, be cancelled, that person shall be disqualified from holding a licence for the period provided by the section to which the offence relates, or as otherwise ordered by the court in accordance with that section.

41. CANCELLATION OF LICENCE

(1) Subject to this Act, where a person is convicted of an offence against this Act, the court may cancel the person's licence and disqualify the person from holding another licence for such period as the court thinks fit.

(2) The cancellation of a licence and disqualification from holding another licence in respect of an offence against this Act is in addition to any other penalty imposed by the court for the offence.

(3) A reference to the cancellation of a person's licence in this section or any other section of this Act shall be read as a reference to the cancellation of that person's licence to drive any motor vehicle.

42. CONTINUATION OF PROVISIONAL LICENCE

Subject to this Act, where a person who is the holder of a licence granted under section 10 of the *Motor Vehicles Act*, which is provisional by virtue of section 10A of that Act, is convicted of an offence against this Act or the *Motor Vehicles Act*, the court may, in addition to imposing any other penalty on that conviction, and notwithstanding section 10A(2) of the *Motor Vehicles Act*, order that the person's licence shall, for the purposes of that Act and this Act, continue to be provisional for a further period of not less than 3 months and not more than 12 months after the expiration of the period referred to in section 10A(2) of that Act, as the court thinks fit and specifies in the order.

43. APPEALS AGAINST CONVICTIONS, CANCELLATIONS, &c.

(1) Where -

- (a) a person has been convicted of an offence against this Act and in consequence of the conviction -

Traffic

- (i) the person's licence has been cancelled; or
 - (ii) the person has been disqualified from holding a licence for a period; and
- (b) the person has duly instituted an appeal to the Supreme Court from the conviction or order in respect of the offence,

then on and from the date when the court by which the order or conviction was made is satisfied that an appeal has been duly instituted and until the determination of the appeal, this Act does not apply to or in relation to that person's conviction in so far as it would, but for this section -

- (c) cause that person to cease to be licensed or be deemed to be licensed;
- (d) require the delivery of that person's licence to the Registrar for cancellation; or
- (e) cause that person to be disqualified from being granted a licence or from holding a licence.

(2) Unless the Supreme Court on the hearing of an appeal quashes the conviction -

- (a) the period, if any, during which the appellant is disqualified from being granted or holding a licence to drive a motor vehicle ends, subject to any order the Supreme Court makes on the hearing of the appeal, on the date which is as many days after the date on which it would have ended if there had been no appeal as there are days in the period between the institution and the determination of the appeal; and
- (b) subject to any order the Supreme Court makes on the hearing of the appeal, the appellant is not licensed or shall not be deemed to be licensed during the period commencing on the determination of the appeal and ending on the date which is as many days after the determination as there are days in the period between the institution and the determination of the appeal.

(3) For the purposes of this section, a reference to a person having been convicted of an offence includes a person to whom an order (including an order to dismiss a charge) made under section 4(1) of the *Criminal Law (Conditional Release of Offenders) Act* in respect of that offence relates.

Traffic

PART VIII - MISCELLANEOUS

44. TRAFFIC INFRINGEMENT DETECTION DEVICE

(1) The Director may, by notice in the *Gazette*, approve a device of a kind specified in the notice as a traffic infringement detection device subject to such conditions as are specified in that notice, including conditions specifying the frequency with which, and the manner in which, the device shall be tested by a person approved under subsection (2).

(2) The Commissioner may, by notice in the *Gazette*, approve a person as a person qualified to test the accuracy of a traffic infringement detection device.

(3) A traffic infringement detection device shall not be used for the purposes of this section unless it has been tested in the prescribed manner.

(4) In proceedings for an offence against this Act, evidence may be given by a member of the Police Force of the use by that member of a traffic infringement detection device in relation to the detection of the offence and that evidence shall be prima facie evidence of the offence.

(5) For the purposes of subsection (4), a certificate purporting to be signed by a person approved under subsection (2), or a copy of such a certificate, produced by the prosecution and purporting to certify that the traffic infringement detection device specified in the certificate -

- (a) is a traffic infringement detection device within the meaning of this Act; and
- (b) was tested in the prescribed manner on a specified day and was shown by the test to be accurate to the extent indicated in the certificate,

is, without proof of the signature, evidence of the facts certified and that the device was accurate to that extent on the day on which it was so tested.

45. OFFENCE AGAINST REGULATIONS NOT TO AFFECT DAMAGES IN RESPECT OF DEATH OF, OR INJURY TO, CHILD

Notwithstanding any other law of the Territory, in civil proceedings in respect of injury to a child or young person arising out of the use of a motor vehicle, damages recoverable by the child or young person shall not be reduced by reason only that an act or omission by a person constituted an offence under this Act relating to the obligations of a driver of a motor vehicle to children and young persons in a motor vehicle.

Traffic

46. LIABILITY AT COMMON LAW AND BY STATUTE

Nothing in this Act affects the liability of a person by virtue of any other law (including the common law) in force in the Territory.

47. DUTIES AND POWERS OF POLICE, &c.

(1) A member of the Police Force shall do all things in that member's power to ensure that this Act is duly observed.

(2) For the purposes of subsection (1), a member of the Police Force may drive, use, ride on or be carried or drawn by, any vehicle or animal the driver of which has been given a direction or order under this Act and that member shall not be liable for the payment of any fare ordinarily chargeable for such use, hire or carriage.

(3) Where a driver or person in charge of a vehicle is arrested or otherwise lawfully detained by a member of the Police Force and that driver or person is unwilling or unable, for whatever reason, to move or secure the vehicle, the member may -

- (a) park and secure the vehicle at or near the place where the driver or person is arrested or detained; or
- (b) arrange for it to be towed, moved or, where considered by the member to be safe to do so, driven to a police station or other place,

without liability for any damage or loss which may occur to the vehicle or to anything in it.

(4) Where a vehicle is not registered, a member of the Police Force may take charge of the vehicle and may arrange for it to be towed, moved or, where considered by the member to be safe to do so, driven, to a police station or other place without liability for any damage or loss which may occur to the vehicle or to anything in it.

(5) Where a vehicle is, under subsection (3) or (4), towed, moved or driven to a police station or other place, the vehicle may be kept at that station or place until the costs of towing or moving it and of detaining it are paid to the Territory.

(6) Where, at the expiration of 3 months after a vehicle has been taken charge of under subsection (3) or (4), the costs referred to in subsection (5) have not been paid, the Commissioner may, by public auction, dispose of the vehicle and the money, if any, obtained from the sale of the vehicle shall, after payment of the costs referred to in subsection (5), be paid into the Consolidated Fund.

(7) A sale in accordance with subsection (6) shall be valid as against all persons.

Traffic

48. EXTENSION TO ACTS OR OMISSIONS IN RELATION TO ANIMALS DRIVEN, RIDDEN OR LED AND TO VEHICLES OR BICYCLES

(1) Where a driver of a vehicle on a public street or public place does or omits to do an act, being an act or omission which, if that driver were the driver of a motor vehicle, would constitute a contravention of or failure to comply with this Act, the driver of that vehicle commits an offence against this Act.

(2) Where a driver of a motor vehicle on a public street or public place does or omits to do an act, in relation to a vehicle, being an act or omission which, if the vehicle were a motor vehicle would constitute a contravention of or failure to comply with this Act, the driver of the motor vehicle commits an offence against this Act.

49. SECOND OR SUBSEQUENT OFFENCE

(1) For the purposes of this Act, a reference to a second or subsequent offence against a provision of this Act (other than section 19(1), (2) or (4) or 20), shall be read as a reference to an offence committed against that provision by a person who has previously been convicted of -

- (a) that offence; or
- (b) a similar offence against the *Traffic Act* as in force immediately before the commencement of this Act.

(2) For the purposes of this Act, a reference to a second or subsequent offence against section 19(1), (2) or (4) or 20 shall be read as a reference to an offence committed against that provision by a person who has previously been convicted of -

- (a) that offence;
- (b) an offence against any of those subsections or section 20; or
- (c) any offence against section 8(1), (2) or (4) or section 8A of the *Traffic Act* as in force immediately before the commencement of this Act.

50. ATTEMPTS TO COMMIT OFFENCE AGAINST SECTION 19

A person who attempts to commit an offence against section 19 is guilty of that offence.

51. REGULATORY OFFENCES

An offence against or a contravention or failure to comply with this Act (other than sections 30 and 31) is a regulatory offence.

Traffic

52. GENERAL PENALTIES

A person who contravenes or fails to comply with a provision of this Act in respect of which no penalty, other than by this section, as provided, is guilty of an offence.

Penalty: \$2,000 or imprisonment for 12 months.

53. REGULATIONS

(1) The Administrator may make regulations, not inconsistent with this Act, prescribing all matters -

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting the generality of subsection (1), the Regulations may provide for -

- (a) the exemption of certain persons from the application of all or part of the Regulations;
- (b) the erection and operation of, and obedience to, traffic control devices;
- (c) the regulation or prohibition of persons driving vehicles including -

- (i) driving on the left, in reverse, at intersections or on beaches, footways, reservations and traffic islands;
- (ii) the overtaking or passing of vehicles;
- (iii) giving way to vehicles;
- (iv) the parking or standing of vehicles or leaving vehicles unattended;
- (v) the turning, starting and stopping of vehicles;
- (vi) the towing of vehicles; and
- (vii) the number of hours which a person may drive a vehicle;

- (d) the regulation of pedestrians on public streets and public places;
- (e) the regulation of persons on or near railway level crossings;

Traffic

- (f) the prescribing or determining by the Registrar of speed restrictions and the use of traffic infringement detection devices including the testing and operation of such devices;
- (g) the lights, warning signs and equipment to be fitted to vehicles and the use of such lights, warning signs and equipment;
- (h) the regulation of the use of bicycles and toy vehicles on public streets or public places;
- (j) freeways, bus lanes, bicycle ways, truck lanes, truck priority lanes and transit lanes;
- (k) the safety of persons in or on vehicles;
- (m) the authorization of persons carrying out breath analyses;
- (n) the securing of loads on vehicles and the measures to be taken in the event of the loss of material from vehicles;
- (p) the regulation or prohibition of persons obstructing public streets or public places;
- (q) the regulation or prohibition of persons holding -
 - (i) processions, parades or other events; or
 - (ii) vehicle trials, speed tests or races,
on public streets or public places;
- (r) the control of animals on public streets or public places;
- (s) the payment of a prescribed amount in lieu of a penalty which may otherwise be imposed for an offence against the Regulations;
- (t) the service of notices on persons alleged to have infringed the Regulations and particulars to be included in such notices;
- (u) the proof of ownership of a vehicle and other evidentiary matters in respect of offences committed against the Regulations;
- (w) the sale or disposal of abandoned vehicles;
- (y) penalties not exceeding \$2,000 or imprisonment for 6 months, or both, for offences against the Regulations; and
- (z) the forfeiture of goods on conviction for an offence against the Regulations.

Traffic

(3) The Regulations may incorporate or adopt by reference the provisions of any document, standard, rule, specification or method formulated, issued, prescribed or published by any authority or body whether -

- (a) wholly or partly, or as amended by the Regulations;
- (b) as formulated, issued, prescribed or published at the time the Regulations are made or at any time before then; or
- (c) as amended after the making of the Regulations, but only where the Director has published in the *Gazette* a notice that the particular amendment is to be incorporated in the Regulations.

54. SAVINGS AND TRANSITIONAL

(1) In this section a reference to -

- (a) the former Act is a reference to the *Traffic Act* as in force immediately before the commencement of this Act; and
- (b) the commencement of this Act is a reference to the commencement of this Act other than sections 1 and 2.

(2) Notwithstanding the commencement of this Act, the provisions of the former Act and the Regulations made under that Act shall apply to and in relation to a prosecution or legal proceeding for an offence against that Act which continues or is commenced after that commencement as if this Act had not come into operation.

(3) Where, immediately before the commencement of this Act, a person was an authorized analyst under the former Act, that person shall, on the commencement of this Act, be deemed to be an authorized analyst appointed under this Act.

(4) Where, immediately before the commencement of this Act, a member of the Police Force was authorized under section 8M of the former Act to use a prescribed instrument, that member shall, on the commencement of this Act, be deemed to be authorized to use a prescribed instrument under this Act.

(5) Where, before the commencement of this Act -

- (a) a sign, signal, flag, notice, beacon or other device was erected, placed or displayed; or
- (b) a road marking on a carriageway or kerb was made,

Traffic

for the purposes of the former Act, that sign, flag, notice, beacon, device or road marking shall, on the commencement of this Act, be deemed to be a traffic control device placed, erected or displayed by the competent authority in accordance with, and for the purposes of, this Act.

(6) Where, immediately before the commencement of this Act, an apparatus was a traffic speed analyser approved under the former Act, that apparatus shall, on the commencement of this Act, be deemed to be a traffic infringement detection device approved under this Act and a test required to be carried out on the apparatus under the former Act shall be deemed to be a test carried out under this Act until such time as a test is carried out, or is required to be carried out, under this Act.

(7) Where, immediately before the commencement of this Act, a person was approved under section 56AB(2) of the former Act as a person qualified to test the accuracy of a traffic speed analyser, that person shall, on the commencement of this Act, be deemed to be a person qualified to test the accuracy of a traffic infringement detection device appointed under this Act.

(8) Where, before the commencement of this Act, a person referred to in section 55AA(1) of the former Act instituted an appeal to the Supreme Court and that appeal has not been determined at the time of the commencement of this Act, section 43 shall, on that commencement, apply to and in relation to that appeal as if it were an appeal against a conviction under this Act and the court in which the order or conviction was made shall be deemed to be satisfied an appeal has been duly instituted.

55. REPEAL

(1) Subject to subsection (2), the Ordinances and Acts listed in Schedule 2 are repealed.

(2) Notwithstanding the repeals effected by subsection (1), Part IV of the *Traffic Act*, as in force immediately before the commencement of this Act (other than sections 1 and 2 of this Act), shall, by virtue of this subsection, continue in force after that commencement and shall be deemed to form part of this Act until repealed by the Minister by notice in the *Gazette*.

Traffic

SCHEDULE 1

Section 39

MINIMUM DISQUALIFICATION PERIODS

Column 1	Column 2	Column 3	Column 4
Section	Concentration of alcohol in blood in grams per 100 mL of blood	First offence	Second or subsequent offence
Section 19(1)		6 months	12 months
Section 19(2)	.08 or more but less than .15	6 months	12 months
	.15 or more	12 months	18 months
Section 19(4)		3 months	6 months
Section 20		12 months	18 months

SCHEDULE 2

Section 55

ACTS REPEALED

Ordinance, Act	Number and year
<i>Traffic Ordinance</i> 1949	No. 8, 1949
<i>Traffic Ordinance</i> 1952	No. 14, 1952
<i>Traffic Ordinance</i> 1954	No. 12, 1954
<i>Traffic Ordinance</i> 1956	No. 27, 1956
<i>Traffic Ordinance</i> 1957	No. 37, 1957
<i>Traffic Ordinance</i> 1958	No. 5, 1958
<i>Traffic Ordinance</i> 1959	No. 15, 1959
<i>Traffic Ordinance</i> 1960	No. 8, 1961
<i>Traffic Ordinance</i> 1961	No. 28, 1961

Traffic

SCHEDULE - continued

Ordinance, Act	Number and year
<i>Traffic Ordinance</i> 1962	No. 46, 1962
<i>Traffic Ordinance</i> (No. 2) 1966	No. 31, 1966
<i>Traffic Ordinance</i> 1966	No. 10, 1967
<i>Traffic Ordinance</i> 1968	No. 41, 1968
<i>Traffic Ordinance</i> (No. 2) 1968	No. 42, 1968
<i>Traffic Ordinance</i> (No. 3) 1968	No. 69, 1968
<i>Traffic Ordinance</i> 1969	No. 5, 1970
<i>Traffic Ordinance</i> 1970	No. 64, 1970
<i>Traffic Ordinance</i> 1971	No. 13, 1971
<i>Traffic Ordinance</i> (No. 2) 1971	No. 35, 1971
<i>Traffic Ordinance</i> (No. 3) 1971	No. 48, 1971
<i>Traffic Ordinance</i> 1972	No. 23, 1972
<i>Traffic Ordinance</i> (No. 2) 1972	No. 51, 1972
<i>Traffic Ordinance</i> (No. 3) 1972	No. 71, 1972
<i>Traffic Ordinance</i> 1973	No. 47, 1973
<i>Traffic Ordinance</i> (No. 2) 1973	No. 48, 1973
<i>Traffic Ordinance</i> (No. 3) 1973	No. 80, 1973
<i>Traffic Ordinance</i> (No. 4) 1973	No. 84, 1973
<i>Traffic Ordinance</i> 1974	No. 10, 1974
<i>Traffic Ordinance</i> (No. 2) 1974	No. 11, 1974
<i>Traffic Ordinance</i> (No. 3) 1974	No. 31, 1974
<i>Traffic Ordinance</i> 1975	No. 5, 1975
<i>Traffic Ordinance</i> 1976	No. 24, 1976
<i>Traffic Ordinance</i> (No. 2) 1976	No. 56, 1976
<i>Traffic Ordinance</i> (No. 3) 1976	No. 7, 1977
<i>Traffic Ordinance</i> 1977	No. 33, 1977

Traffic

SCHEDULE - continued

Ordinance, Act	Number and year
<i>Traffic Ordinance 1978</i>	No. 17, 1978
<i>Traffic Act (No. 2) 1978</i>	No. 131, 1978
<i>Traffic Act (No. 3) 1978</i>	No. 132, 1978
<i>Traffic Act 1979</i>	No. 106, 1979
<i>Traffic Act (No. 2) 1979</i>	No. 134, 1979
<i>Traffic Act (No. 4) 1979</i>	No. 139, 1979
<i>Traffic Act (No. 3) 1979</i>	No. 161, 1979
<i>Traffic Amendment Act 1981</i>	No. 20, 1981
<i>Traffic Amendment Act (No. 2) 1981</i>	No. 83, 1981
<i>Traffic Amendment Act (No. 3) 1981</i>	No. 112, 1981
<i>Traffic Amendment Act (No. 4) 1981</i>	No. 113, 1981
<i>Traffic Amendment Act 1982</i>	No. 81, 1982
<i>Traffic Amendment Act (No. 2) 1982</i>	No. 82, 1982
<i>Traffic Amendment Act 1983</i>	No. 16, 1983
<i>Traffic Amendment Act 1984</i>	No. 13, 1984
<i>Traffic Amendment Act 1986</i>	No. 23, 1986
<i>Traffic Amendment Act 1987</i>	No. 16, 1987
